

**AUG 24 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ERIC SCOTT VILLANUEVA,

Petitioner - Appellant,

v.

GAIL LEWIS, Deputy Warden,

Respondent - Appellee.

No. 05-16022

D.C. No. CV-03-02726-TEH

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Thelton E. Henderson, District Judge, Presiding

Submitted August 21, 2006\*\*

Before: GOODWIN, REINHARDT and BEA, Circuit Judges.

California state prisoner Eric Scott Villanueva appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 petition. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Villanueva contends that he was deprived of his Sixth Amendment right to a fair and impartial jury due to juror misconduct. We conclude that the state court's decision on this matter was neither contrary to nor an unreasonable application of clearly established federal law, as determined by the Supreme Court. *See McDonough Power Equip., Inc. v. Greenwood*, 464 U.S. 548, 556 (1984); *Fields v. Brown*, 431 F.3d 1186, 1193-98 (9th Cir. 2005).

Furthermore, we reject Villanueva's contention that the hearing conducted on his motion for a new trial violated his right to due process. *See Dyer v. Calderon*, 151 F.3d 970, 976 (9th Cir. 1998) (en banc).

**AFFIRMED.**